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15 FEB 2006

NOVARTIS  
CORPORATE INTELLECTUAL PROPERTY  
ONE HEALTH PLAZA 104/3  
EAST HANOVER NJ 07936-1080

In re Application of

BETZ et al.

Application No.: 10/520,569

DECISION

PCT No.: PCT/EP03/07347

Int. Filing Date: 08 July 2003

Priority Date: 09 July 2002

Attorney Docket No.: BP/G-32574A/BCK

For: LIQUID FORMULATION WITH HIGH  
CONCENTRATION OF HUMAN GROWTH HORMONE  
(HGH) COMPRISING 1,2- PROPYLENE PHENOL

This is a decision on applicants' petition under 37 CFR 1.47(a) filed 29 November 2005 in the United States Patent and Trademark Office (USPTO).

**BACKGROUND**

On 08 July 2003, applicants filed international application PCT/EP03/07347, which designated the United States and claimed a priority date of 09 July 2002. A copy of the international application was communicated from the International Bureau to the USPTO on 15 January 2004. The thirty-month period for paying the basic national fee in the United States expired at midnight on 10 January 2005 (09 January 2005 being a Sunday).

On 07 January 2005, applicants filed a submission for entry into the national stage in the United States which was accompanied by, *inter alia*, the U.S. Basic National Fee.

On 29 June 2005, the United States Designated/Elected Office (DO/EO/US) mailed a NOTIFICATION OF MISSING REQUIREMENTS UNDER 35 U.S.C. 371 (Form PCT/DO/EO/905) indicating, *inter alia*, that an oath or declaration of the inventors in compliance with 37 CFR 1.497(a)-(b) and the surcharge under 37 CFR 1492(e) for providing the oath or declaration later than thirty months from the priority date were required.

On 29 November 2005, applicants filed the instant petition under 37 CFR 1.47(a) which was accompanied by, *inter alia*, a declaration of the inventors, the surcharge under 37 CFR

1.492(e) for providing the declaration of inventors later than thirty months from the priority date, a petition/fee for a three month extension of time, a copy of an untranslated letter from Dr. Peter Gasteiger to Dr. Michael Betz, and a copy of an untranslated letter from Dr. Michael Betz to Biljana Colovic.

On 30 November 2005, applicants filed English translations of the letters filed 29 November 2005.

#### DISCUSSION

A petition under 37 CFR 1.47(a) must be accompanied by: (1) the fee under 37 CFR 1.17(h); (2) factual proof that the missing joint inventor refuses to execute the application or cannot be reached after diligent effort; (3) a statement of the last known address of the missing inventor; and (4) an oath or declaration by each 37 CFR 1.47(a) applicant on his or her own behalf and on behalf of the non-signing joint inventor.

As to item (1), the petition fee of \$200 has been charged to Deposited Account 19-0134. Accordingly, item (1) has been met.

Items (2)-(4) have also been satisfied.

#### CONCLUSION

For the above reasons, applicants' renewed petition under 37 CFR 1.47(a) is **GRANTED**.

As provided in 37 CFR 1.47(a), a notice of the filing of this application will be forwarded to non-signing inventor at his last known address of record.

A notice of the filing of the application under 37 CFR 1.47(a) will be published in the Official Gazette.

This application is being forwarded to the National Stage Processing Branch of the Office of PCT Operations to continue national stage processing of the application, including the accordation of a 35 U.S.C. §§371(c)(1), (c)(2), and (c)(4) date of **29 November 2005**.



Daniel Stemmer

Legal Examiner

PCT Legal Affairs

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For: LIQUID FORMULATION WITH HIGH CONCENTRATION OF HUMAN GROWTH  
HORMONE (HGH) COMPRISING 1,2- PROPYLENE PHENOL

Dear Mr. Betz:

You are named as an inventor in the above-captioned United States national stage application, filed under the provisions of 37 CFR 1.47(a) and 35 U.S.C. 116. Should a patent be granted, you will be designated as an inventor.

As a named inventor, you are entitled to inspect any paper in the file wrapper of the application, order copies of all or any part thereof (at a prepaid cost per 37 CFR 1.19) or to make your position of record in the application. Alternatively, you may arrange to do any of the preceding through a registered patent agent or attorney presenting written authorization from you. Joining in the application would entail the filing of an appropriate oath or declaration by you pursuant to 37 CFR 1.63.

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